IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL, CIVIL JURISDICTION

NOTICE OF MOTION NO.413 OF 2006
WITH
WRIT **PETITION NO. 370 OF 200**5

Maharashtra State Electricity Board..Petitioners

Versus

Maharashtra State Electricity

Regulatory Commission & Ors.....Respondents

Mr.Gaurav Joshi i/b. Little & Co., for the

Petitioners

Mr. Harish Jagtiani, Senior Counsel i/b. Y.M. Jain

for Respondent No.3.

CORAM: **F.I. REBELLO &**

ANOOP V.MOHTA, JJ.

DATE: 18TH AUGUST,2006

P.C.

. When this petition was entertained the Appellate Authority under Section 111 of the Electricity Act, 2003 had not been constituted. It has since been constituted. Even at the stage of admission this Court had granted liberty to the petitioners when the Appellate Authority was constituted to move the Appellate Authority.

2. On behalf of the petitioners learned Counsel points out that the Respondents should not raise the plea of limitation. On behalf of respondent No.3

learned Counsel on instructions makes a statement that they will not raise the plea of limitation.

3. Even otherwise as the Appellate Authority has now been constituted and the petitioners or the Maharashtra State Electricity Distribution Company Ltd., who are now vitally interested in the subject matter being the successor to the petitioner, to prefer an Appeal before the Appellate Authority within eight weeks from today. If they prefer an appeal then parties present agree that the appeal shall be heard and disposed of on merits without the issue of limitation being raised before the Appellate Authority. Considering that the petition was pending before the Court. We have no doubt that the Appellate Authority will hear the Appeal on merits. The order of status quo to continue till hearing and final disposal of the Appeal. The petitioners not to make any recovery of any arrears in respect of the issue which is covered by the M.E.R.C. order.

4. Rule discharged. No order as to costs.

Liberty to apply.

5. Notice of Motion also disposed of accordingly.

(F.I. REBELLO, J)

(ANOOP V.MOHTA, J.).